STATE OF MICHIGAN
IN THE SUPREME COURT

FRANK HOUSTON, EDNA FREIER, CHRISTY JENSON, LORETTA COLEMAN, JIM NASH, DAVID RICHARDS, and ERIC COLEMAN,

Plaintiffs-Appellees,

v

GOVERNOR,

Defendant-Appellant,

and

OAKLAND COUNTY BOARD OF COMMISSIONERS,

Defendant.

Supreme Court No. [#]

Court of Appeals No. 308725

Ingham Circuit Court No. 12-10-CZ

ACTION MUST BE TAKEN BEFORE MARCH 15, 2012

This appeal involves the Court of Appeals' invalidation of a portion of a recently-enacted election law, 2011 PA 280, with a critical effective date of March 28, 2012.

MOTION FOR IMMEDIATE CONSIDERATION OF EMERGENCY APPLICATION FOR LEAVE TO APPEAL

Defendant-Appellant, Governor Rick Snyder, moves for immediate consideration of his application for leave to appeal and states as follows:

1. Plaintiffs-Appellees filed their Complaint for Declaratory and Injunctive Relief in the Ingham County Circuit Court, asserting that 2011 PA 280's changes to the County Apportionment Act are unconstitutional.

2. The Michigan Legislature passed 2011 PA 280 on December 8, 2011, amending the County Apportionment Act, MCL 46.401 *et seq.*

3. 2011 PA 280's effective date is March 28, 2012.

4. 2011 PA 280 amends the County Apportionment Act by (1) reducing the maximum number of county commissioners from 35 to 21; and (2) requiring

counties with populations in excess of 1,000,000 that have adopted an optional unified form of government and an elected county executive, to have their board of commissioners serve as their county apportionment commission.

5. Section 1(2) of 2011 PA 280 requires counties to comply with the Act within 30 days of the effective date, or no later than April 27, 2012.

6. Currently, only Oakland County meets the requirements of the Act.

7. The parties filed cross-motions for summary disposition under MCR 2.116(C)(10).

8. The Circuit Court granted Plaintiffs' Motion for Summary Disposition and denied both Defendant-Appellant Snyder's Motion for Summary Disposition and Oakland County Board of Commissioners' Motion for Summary Disposition, concluding that 2011 PA 280 violates art 4, § 29's prohibition on local acts, the Headlee Amendment's prohibition on unfunded mandates, and Oakland County voters' rights to petition for judicial review of Oakland County's reapportionment under MCL 46.406.

9. Defendants Governor Snyder and Oakland County Board of Commissioners filed separate appeals in the Court of Appeals. The Court of Appeals consolidated the appeals.

10. On March 7, 2012, the Court of Appeals, in a 2 to 1 decision, affirmed the Circuit Court's order in part and reversed in part.

11. The Court of Appeals affirmed the Circuit Court's grant of summary disposition as to the unconstitutionality of the first sentence of 2011 PA 280, § 1(2)

as an improperly enacted local act, but held that the remaining provisions of the Act were sufficiently general to be passed without meeting the requirements of Const 1963, art 4, § 29.

12. The Court of Appeals did not therefore address the alternate bases proffered by the trial court for concluding that 2011 PA 280 is unconstitutional.

13. Accordingly, the Court of Appeals remanded for entry of an order invalidating the first sentence of 2011 PA 280, § 1(2), but otherwise upholding the constitutionality of the Act.

14. Immediate consideration of Defendant Snyder's emergency application for leave to appeal is required because (1) Plaintiffs have challenged the constitutionality of a provision of an Act that becomes effective on March 28, 2012; and (2) the constitutionality of § 1(2) of 2011 PA 280 needs to be resolved sufficiently prior to March 28, 2012, the effective date of 2011 PA 280, so Oakland County may prepare its apportionment plan.

CONCLUSION AND RELIEF SOUGHT

WHEREFORE, for the reasons set forth in this motion and the accompanying emergency application for leave to appeal, Defendant-Appellant Governor Snyder requests that this Honorable Court:

(a) grant this Motion for Immediate Consideration;

(b) expedite consideration of this appeal and rule no later than March 15, 2012;

(c) reverse the Court of Appeals' Opinion declaring the first sentence of Section 1(2) of 2011 PA 280 unconstitutional as a local act;

(d) declare 2011 PA 280 constitutional as a general act;

(e) grant Defendant-Appellant Snyder any other and further relief that is equitable and just.

Respectfully submitted,

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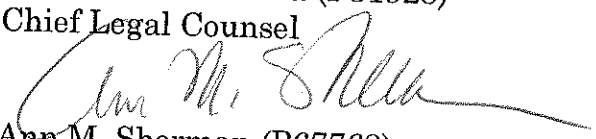

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Dated: March 8, 2012

STATE OF MICHIGAN
IN THE SUPREME COURT

FRANK HOUSTON, Chair, Oakland County Apportionment Commission,
AND
EDNA FREIER, CHRISTY JENSON, LORETTA COLEMAN, JIM NASH, DAVID RICHARDS, AND ERIC COLEMAN,

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v

RICK SNYDER, GOVERNOR OF THE STATE OF MICHIGAN, AND OAKLAND COUNTY BOARD OF COMMISSIONERS

Defendant-Appellant

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DEFENDANT GOVERNOR RICK SNYDER'S EMERGENCY APPLICATION FOR LEAVE

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STATEMENT OF QUESTIONS PRESENTED

1. Is the first sentence of 2011 PA 280, Section (1)(c), constitutional as a general rather than a local act since its classifications are reasonably related to the purpose of the act and open-ended for by counties other than Oakland County?

   Appellant's answer: Yes

   Appellees' answer: No

   Trial court's answer: No

   Court of Appeals' answer: No

INTRODUCTION

In a 2-1 published decision, the Court of Appeals struck down a portion of 2011 PA 280, which reduces the size and cost of county government by limiting to 21 the maximum number of commissioners for any county with a population over 50,000. The Court should grant this emergency application and reverse the Court of Appeals' conclusion that § 1(2) of the Act is a local act rather than a general act.

Section 1(2)'s requirements are reasonably related to apportionment and open-ended for future inclusion by counties that meet those requirements. Under this Court's well-settled precedent, that makes the legislation a general act, not a local one. The panel majority below reached the opposite conclusion by (1) applying a "probability standard" that this Court has repeatedly rejected; and (2) relying on *Michigan v Wayne County Clerk*, 466 Mich 640; 648 NW2d 202 (2002), which involved the very different scenario of a statute with a temporal limitation that prohibited all but one city from falling under the statute. The Court of Appeals' dissent properly distinguished *Wayne County Clerk* and would have upheld the statute in its entirety.

Throughout this litigation, Plaintiffs have attempted to shift the focus away from PA 280's legality by raising claims of political maneuvering and improper legislative motives. Such arguments are obviously irrelevant to the discreet legal issue before this Court, *Michigan United Conservation Clubs v Secretary of State*, 464 Mich 359, 367; 630 NW2d 297 (2001), and do nothing to change the Act's plain language nor the appropriate constitutional analysis. Defendant Governor Snyder respectfully requests that this Court grant the emergency application and reverse.

STATEMENT OF FACTS

A. Challenged Law

2011 PA 280 was signed into law by Governor Snyder on December 19, 2011. The law will become effective on March 28, 2012. The Act amends Public Act 261 of 1966 governing the method and manner of apportionment of county boards of commissioners and prescribing their size.

The Act provides, in part:

> Sec. 1(1) Within 60 days after the publication of the latest United States official decennial census figures, the county apportionment commission in each county of this state shall apportion the county into not less than 5 nor more than 21 county commissioner districts as nearly of equal population as is practicable and within the limitations of section 2.
>
> (2) If a county is not in compliance with section 2 on the effective date of the amendatory act that added this subsection, the county apportionment commission of that county shall, within 30 days of the effective date of the amendatory act that added this subsection, apportion the county in compliance with section 2. For subsequent apportionments in a county that is apportioned under this subsection, the county apportionment commission of that county shall comply with the provisions of subsection (1).

Sec. 2

County Population	Number of Commissioners
Under 5,001	Not more than 7
5,001 to 10,000	Not more than 10
10,001 to 50,000	Not more than 15
Over 50,000	Not more than 21

> Sec. 3 (1) except as otherwise provided in this subsection, the county apportionment commission shall consist of the county clerk, the county treasurer, the prosecuting attorney, and the statutory county chairperson of each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election. If a county does not have a statutory chairperson of a political party, the 2 additional members shall be a

> party representative from each of the 2 political parties receiving the greatest number of votes cast for the office of secretary of state in the last preceding general election and appointed by the chairperson of the state central committee for each of the political parties. In a county with a population of 1,000,000 or more that has adopted an optional unified form of county government under 1973 PA 139, MCL 45. 551 to 45.573, with an elected county executive, the county apportionment commission shall be the county board of commissioners. . . .

1966 PA 261 has been attached to this brief as Exhibit 3; 2011 PA 280 has been attached as Exhibit 4.

Thus, the Act contains the following requirements: as set forth in Section 2, a population requirement that determines the number of county commissioner districts; and, as set forth in Section 3, both a population requirement and the adoption of an optional unified form of county government, which determine whether the county apportionment commission is the county board of commissioners.

B. Proceedings Below

On February 8, 2012, the Ingham County Circuit Court held oral argument on the parties' cross-motions for summary disposition. On February 15, 2012, the Circuit Court issued an Opinion granting Plaintiffs' motion for summary disposition pursuant to MCR 2.116(C)(10) and denying Defendant Snyder's cross-motion for summary disposition.

First, the Circuit Court concluded the Act was a local one by focusing exclusively on its requirement that qualifying counties undertake a second apportionment within thirty days of the effective date of the Act, April 27, 2012, and thereby concluding that the Act was not open-ended. Second, the Court concluded

that 2011 PA 280 violates the Headlee Amendment's prohibition against unfunded mandates because it requires Oakland County to reapportion. Third, the Court held that 2011 PA 280 would violate the right to petition for review of Oakland County's reapportionment under MCL 46.406.

On February 21, 2012, the Circuit Court entered an Order adopting as the Final Order its February 15, 2012 Opinion and closing this case. Defendants filed separate emergency applications for leave to appeal in the Court of Appeals, and a day later, separate bypass applications for leave to appeal in this Court. The Court of Appeals granted the applications for leave and consolidated the appeals.

On March 7, 2012, the Court of Appeals issued its published opinion. In a 2-1 decision, the panel majority concluded that Public Act 280 contained one specific provision that constitutes a local act because it targets Oakland County alone, and thus, is an impermissible local act. Accordingly, it held that the first sentence of 2011 PA 280—§ 1(2)—should be stricken from the act. But the Court held that in all other respects, Public Act 280 is a valid statute of general application and that the Circuit Court erred in holding the whole Act is unconstitutional. The panel majority further concluded that it need not address the alternate bases proffered by the Circuit Court for concluding that 2011 PA 280 is unconstitutional because the offending provision was struck, rendering the remainder of the Act constitutional. The Court of Appeals therefore affirmed the Circuit Court Order in part, reversed it in part, and remanded for entry of an order invalidating the offending sentence but

otherwise upholding the constitutionality of the Act. (*Houston v Governor*, No. 308724, slip opinion attached as Exhibit 1).

Judge Meter dissented, applying this Court's well-settled precedent and holding that the Act—including the first sentence of § 1(2)—is a general act and therefore constitutional as written. The dissent also concluded the Circuit Court erred both in deeming 2011 PA 280 unconstitutional as a violation of the Headlee Amendment and in holding that the Act unconstitutionally deprives Oakland County electors of a right to seek judicial review. (*Houston v Governor*, No. 308724, Judge Meter dissenting, slip opinion attached as Exhibit 2).

ARGUMENT

Analysis of 2011 PA 280 begins with three overarching principles. The first is that election redistricting is principally a legislative function, *Gaffney v. Cummings*, 412 US 735, 749 (1973), and legislative action is entitled to great deference in such matters. *Wise v Lipscomb*, 437 US 535, 539-540 (1978); *LeRoux v. Secretary of State*, 465 Mich 594; 619, 640 NW2d 849, 863 (2002). The second is that "[a] statute is presumed to be constitutional unless its unconstitutionality is clearly apparent." *McDougall v Schanz*, 461 Mich 15, 23; 597 NW2d 148 (1999). Relatedly, whether legislation "appears undesirable, unfair, unjust or inhumane does not of itself empower a court to override the legislature. . . ." *Doe v Dep't of Social Services*, 439 Mich 650, 681; 487 NW2d 166 (1992). Indeed, every reasonable presumption must be indulged in favor of an act's constitutionality. *Rohan v Detroit Racing, Ass'n*, 314 Mich 326, 341; 22 NW2d 433 (1946). The Court "exercises the

power to declare a law unconstitutional with extreme caution, never exercising it where serious doubt exists with regard to the conflict." *Michigan Dep't of Transp v Tomkins*, 481 Mich 184, 191; 749 NW2d 716 (2008). The third is that the party challenging a statute's constitutionality has the burden of proving its invalidity. *People v Gregg*, 206 Mich App 208, 210; 520 NW2d 690 (1994). It is against this backdrop that this Court examines Plaintiffs' constitutional challenge.

I. Section 1(2) of 2011 PA 280 does not violate Const 1963, art 4, § 29 because it is a general act.

Art 4, § 29 of Michigan's 1963 Constitution prohibits a local or special act from taking effect until approved by two-thirds of the House and a majority of the electors in the affected district. Const 1963, art 4, § 29. The *sine qua non* of a local-acts claim is that one—and only one—local government can ever qualify under the act's conditions. Conversely, where multiple municipalities or counties potentially *could* qualify (regardless of whether they actually do qualify, or are likely to do so in the future), the statute is not a local act. This reality has played out repeatedly in the context of population-based statutes, where additional municipalities or counties can qualify for inclusion if their populations change. E.g., *Dearborn v Wayne Co Bd of Supervisors*, 275 Mich 151, 155-157; 266 NW 304 (1936); *Irishman's Lot, Inc v Secretary of State*, 338 Mich 662, 666-668; 62 NW2d 668 (1954).

Thus, the mere fact that a legislative act contains a population classification that limits the geographic application of the act does not necessarily make the act

local or special. *Lucas v Bd of Rd Comm'rs*, 141 Mich App 642, 652; 348 NW2d 660 (1984). Based on these criteria, Public Act 280 is not a local act.

A. Section 1(2) is reasonably related to the purpose of the statute and is open-ended because it is applicable to any county that meets the requirements.

This Court has set forth a two-part test to be applied in determining whether a law based on a population requirement is a general act. The first part is determining whether population has a reasonable relation to the purpose of the statute. *Dearborn*, 275 Mich at 151. If population is a reasonable and logical basis of classification considering the subject of the legislation, a specified population is properly the test of the applicability of a general legislative act and the act will not be construed as invalid local legislation. *Id.* at 156, citing *Hayes v Auditor General*, 184 Mich 39; 150 NW 331 (1915); see also *Burton v Koch*, 184 Mich 250; 151 NW 48 (1915) (upholding statute enlarging board of education); *Kates v Reading*, 254 Mich 158; 235 NW 881 (1938) (upholding a statute consolidating courts). The second part of the test is for the Court to determine whether the law is open-ended (i.e. whether the law applies to all municipalities if and when they attain the required population.) *Dearborn*, 275 Mich at 151.

1. The 30-day compliance provision is reasonably related to the goal of the Act.

Applying the first part of the test to the first sentence of § 1(2), the requirement that counties who meet the population and form of government

requirements comply by the effective date of the statute is reasonably related to the cost-saving goal of the Act.

The essence of the Act, as set forth in Section 1(1), is the downsizing of government by reducing legislative districts to no more than 21—a statutory mandate applicable to any units of government that meet the qualifications in the future. Section 1(2) is merely a compliance provision that clarifies the timing of any necessary reapportionment for qualifying counties.

This same 30-day requirement was included within the County Apportionment Act as originally enacted in 1966. As the Court of Appeals dissent noted, in enacting 2011 PA 280, "the Legislature was following a template, including an immediate compliance provision, set forth years ago for the county apportionment act." (Exhibit 2, *Houston,* No. 308724, slip op., p 4, fn 2, Judge Meter dissenting). Then, as now, the 30-day procedural requirement served to clarify the date of compliance. Then, as now, that immediate compliance provision applied to any counties that met the requirements. And then, as now, more than one county was capable of meet the requirements.

2. The 30-day compliance provision is open-ended.

The second part of the test of a general law based on population is that it applies to all other municipalities "if and when they attain the statutory population." *Dearborn*, 275 Mich at 156. In other words, it "must have 'an open end through which cities are automatically brought within its operation when they

attain the required population.'" *Dearborn*, 275 Mich at 156, citing *Kates*, 254 Mich at 165.

Applying that part of the test to § 1(2), its requirements are open-ended. It is well-settled that the probability or improbability of other counties reaching the statutory standard of population is not the test of a general law. *Dearborn*, 275 Mich at 157. Instead, "it must be assumed that other local units of government will be able to reach the population goal and other requirements." *Id.* Thus, it must be assumed that other counties will be able to reach the population goals of over 50,000 and 1,000,000 or more, respectively. Also, a county that has not adopted a charter, or elected a charter commission that has not been dissolved under 1966 PA 293, MCL 45.501- 45.521, may adopt an optional unified form of county government. MCL 45.551. Such counties will be included if and when they do so. Indeed, as the Court of Appeals dissent noted, it would be possible for a county such as Wayne to modify its charter before the effective date of 2011 PA 270 in order to have more than 21 commissioners. (Exhibit 2, slip op., p. 3). Wayne County, like Oakland County, would then be required to reduce its number of commissioners and file a reapportionment plan within 30 days of the effective date of the Act.

But until such time, "'[a] class of cities or counties, based upon population, may be valid, though it embraces but one city or county, if others may come into the class on attaining the specified population.'" *Chamski v Cowan*, 288 Mich 238, 256; 284 NW 711 (1939), citing 1 Lewis' Sutherland, Statutory Construction (2d Ed.), § 215.

Although the Court of Appeals majority acknowledged this basic principle in theory, it erred in proceeding to engage in what amounted to a probability analysis. It was able to conclude that Oakland County *alone* would be required to reduce the number of members on its county board of commissioners and to undertake a second reapportionment of its county board of commissioners within 30 days of the effective date of the act, *only* by first concluding that PA 280 was directed, at least in part, at a single locality: Oakland County. (Exhibit 1, *Houston*, No. 308724, slip op, p 4). But its statement that "there is no realistically possible way in which any other locality could be affected by these requirements within that 30-day time frame" is erroneous. Again, other counties, including Wayne, which otherwise met the population requirements of the act, could have modified their charter prior to the effective date period. Thus, scenarios where other counties could be included are not, as the Court of Appeals characterized them, "*practically* impossible scenarios." Exhibit 3, *Houston*, No. 308724, slip op, p 5). And to the extent these scenarios may be "strained and unrealistic" (*Id.* at p 5), again, probability or improbability is not the test. Accordingly, it is realistically possible for localities other than Oakland to be affected. To hold otherwise is to engage in the very probability/improbability analysis this Court rejected in *Dearborn* and numerous other cases.

The Court of Appeals' analysis on that point is telling:

> Defendants attempt to refute this fact [that there is no realistically possible way in which any other locality could be affected] by imagining hypothetical scenarios in which other counties could enlarge the number of members on their county commissioners and adopt new forms of county governance so as to become subject to Public Act 280's requirements to reduce the size of their county commissioners and to

> undertake reapportionment. *But their attempts do not alter the fact that the first sentence of 2011 PA 280, § 1(2), will invariably apply only to Oakland County.*

(Exhibit 1, *Houston*, No. 308724, slip op, p 5 (emphasis added). The fact that § 1(2) may end up applying only to Oakland County is irrelevant. It *could* apply to other counties and therefore is constitutional as a general act.

And as the Court of Appeals dissent aptly noted, the possibility of another county meeting the requirements of the Act and therefore having to comply with § 1(2), is not "akin to the possibility of a new census occurring in *Wayne County Clerk*." (Exhibit 2, *Houston*, No. 308724, Judge Meter dissenting, slip op, p 3, fn1). *Wayne County Clerk* is distinguishable and the Court of Appeals erred in relying on it. (Exhibit 1, *Houston*, No. 308724, slip op, p 4).

3. *Wayne County Clerk* is distinguishable.

The Court of Appeals dissent correctly noted the fundamental difference between the statute at issue in *Wayne County Clerk* and 2011 PA 280: Wayne County Clerk contained a temporal limitation that made it impossible for a city other than Detroit to be subject to the requirement of the statute. (Exhibit 2, *Houston*, No. 308724, Judge Meter dissenting, slip op., p 3).

The sole purpose of the challenged provision in *Wayne County Clerk* was to direct qualifying cities to place on the August 6, 2002 ballot a proposal to change from the current at-large system of electing the city council to a single-member district plan. *Wayne County Clerk*, 466 Mich at 642. Specifically, the challenged provision amended the Home Rule City Act by adding a provision that any city with

both a population of not less than 750,000 (as determined by the most recent census) and a city council composed of 9 at-large council members was required to place a question in a certain form on the ballot at the general primary election held on Tuesday, August 6, 2002. *Wayne County Clerk*, 466 Mich at 642. This Court determined that no city other than the City of Detroit could have a nine-member at-large council and reach the population requirement of 750,000 by the time the proposition appeared on the ballot at the August 6, 2002 election because there would be no new census before that date certain. *Id.* at 643.

The key issue in *Wayne County Clerk* was not that the statute made reference to, or even contained, a date certain, but rather, that the August 6, 2002 election was the essence of the statute. Thus, that date certain made the population requirements a local act. Therefore, the Court of Appeals erred in (1) relying on *Wayne County Clerk*; and (2) likening another county that meets the population requirements and also adopts a unified form of government to Congress requiring a new census to have been conducting prior to the August 6, 2002 election at issue in *Wayne County Clerk*. (Exhibit 3, *Houston*, No. 308274, slip opinion at 5.)

4. *The Act* should be read as a whole and Section 1(2) harmonized

Further, severing Section 1(2) from the rest of the statute, especially from Section 1(1), as did the Court of Appeals, is contrary to well-established canons of statutory construction. In discerning the Legislature's intent, statutory provisions are not to be read in isolation; rather, context matters, and, thus, statutory

provisions are to be read as a whole. *Apsey v Mem Hosp*, 477 Mich 120, 132 n. 8; 730 NW2d 695 (2007) ("To discern the true intent of the Legislature, ... statutes must be read together, and no one section should be taken in isolation."); *Griffith v State Farm Mutual Automobile Ins* Co, 472 Mich 521, 533; 697 NW2d 895 (2005) (" '[T]he meaning of statutory language, plain or not, depends on context.' ") (citation omitted); *G.C. Timmis & C v Guardian Alarm Co*, 468 Mich 416, 421; 662 NW2d 710 (2003) (" '[W]ords in a statute should not be construed in the void, but should be read together to harmonize the meaning, giving effect to the act as a whole.' ") (citation omitted). "[A]ny attempt to segregate any portion or exclude any portion [of a statute] from consideration is almost certain to distort the legislative intent." *Robinson v City of Lansing*, 486 Mich 1, 15-16; 782 NW2d 171, 180 (2010) (emphasis added), citing 2A Singer & Singer, Statutes and Statutory Construction (7th ed.), § 47.2, p. 282.

The Court of Appeals erred in failing to read the statute as a whole and harmonizing its provisions. Again, when §1(2) is read in context, it is merely an immediate compliance provision—and one that is both reasonable and open-ended.

This Court addressed this very point in *Chamski v Cowan* and held that a clause included to promote action on the part of a qualifying county did not make the act a local one where other provisions of the act were clearly general. 288 Mich at 244. Nor did this Court severe that "immediate action" clause from the rest of the Act, as did the Court of Appeals here. As the Court of Appeals dissent noted,

Chamski is a "somewhat analogous case." (Exhibit 2, *Houston*, No. 308724, slip op at 4, Judge Meter dissenting).

Chamski involved the constitutionality of a statute that provided for the appointment of probate judges in counties with specified populations.[1] *Chamski,* 288 Mich at 244. The statute also provided for the manner in which to select a presiding probate judge endowed with the power of appointment, nomination, and removal of certain statutory employees and with control over the general direction and business of the Court. *Id.* at 244-245.[2] Importantly, the statute required selection of a presiding judge within fifteen days of the effective date of the act. Thereafter, the statute provided for subsequent selections annually and the creation of additional positions whenever the U.S. Census showed that a county had achieved the new population classification. *Id.* at 245. The statute also provided that "any county that has failed to elect an additional probate judge, or judges, under this section, prior to July one, nineteen hundred thirty-two, shall be not entitled to elect any additional judge, or judges, under the provisions of this section." *Id.*

The plaintiff in *Chamski* challenged the constitutionality of the act, alleging that it was a special act rather than a general act. *Id.* at 253. Specifically, the

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[1] The statute provided that counties with 180,000 inhabitants should have 2 probate judges; counties with 750,000 inhabitants should have 4 probate judges, and counties with 500,000 inhabitants should have 3 probate judges.

[2] The statute provided that these powers should be vested in the judge having served the longest continuously in counties under 750,000; and, in counties over 750,000, in the judge who shall be selected by majority of other judges (or, if this failed, then the judge selected by the Governor).

plaintiff asserted that the operation of two clauses contained within the statute rendered it special in nature: (1) the clause requiring that selections of judges occur within 15 days of the effective date of the act; and, (2) the clause providing that any county that failed to elect an additional probate judge, or judges, prior to July 1, 1932, would not be entitled to elect any additional judge or judges under the provisions of the act. *Id.* at 256. The plaintiff argued that the operation of these two clauses precluded the statute from being open-ended. This Court disagreed. In finding the act constitutional, this Court stated:

> If the legislature had intended the above clauses to prevent inclusion of counties subsequently acquiring the required population, it would not have provided a method for such inclusion. To adopt plaintiff's construction, it must be held that the legislature inserted provisions for inclusion of additional counties when they acquired the requisite population knowing such provisions were nullified by the clauses pointed out. An interpretation of a statutory provision which gives effect to all of its provisions is favored.

Id. at 257 (emphasis added).

Importantly, this Court also noted that it is the "duty of courts, so far as practicable, to reconcile the different provisions of a statute so as to make the whole of it consistent and harmonious; and, where this is impossible, to give effect to what was manifestly the intention of the Legislature." *Id.* at 257-258. With these principles in mind, this Court determined that the clauses pointed out by the plaintiff were merely included to "promote speedy action on the part of the counties having the required population." *Id.* at 258. Thus, the act was general and constitutional. *Id.*

Like *Chamski*, Plaintiffs here grasp a single provision requiring redistricting within 30 days by any county not in compliance with the law, and argue that it is local, not general. Although the Court of Appeals did not render the entire Act a special act and therefore unconstitutional, it erred in severing § 1(2) rather than reading it in context and giving effect to what was clearly and unequivocally the intention of the Legislature: that the Act's cost-saving measures take immediate effect for all counties meeting the requirements. As in *Chamski*, the provision of which Plaintiffs complain merely promotes action on the part of *any* county meeting the statutory requirements.

5. The legislative intent is clear from the plain language.

Plaintiffs cannot avoid the implications of the Act's plain language by claiming "subterfuge" and citing at length to newspaper articles, political anecdotes, and legislative history. These arguments are irrelevant. It is self-evident that statutory language expresses legislative intent. *Michigan Department of Transp v Tomkins*, 481 Mich 184, 191; 749 NW2d 716 (2008). Where the statute unambiguously conveys the Legislature's intent, "the proper role of a court is simply to apply the terms of the statute to the circumstances in a particular case." *In re Certified Question from U.S. Court of Appeals for Sixth Circuit*, 468 Mich 109, 113; 659 NW2d 597 (2003). "Courts must accord the words of a statute their plain and ordinary meanings and should look beyond the statutory language itself to ascertain legislative intent only when the statutory language appears ambiguous." *Pohutski v City of Allen Park*, 465 Mich 675, 683; 641 NW2d 219 (2002). Further,

"courts must not be concerned with the alleged motives of a legislative bylaw in enacting a law, but only with the end result—the actual language the legislation." *Michigan United Conservation Club v Secretary of State*, 464 Mich 359, 367; 630 NW2d 297 (2001).

The first sentence of § 1(2) is unambiguous and its requirements are reasonable and open-ended. Therefore, it was enacted in compliance with Const 1963, art 4, § 29. No further inquiry is necessary.

In sum, § 1(2) of 2011 PA 280 does not target Oakland County alone and therefore is a provision of general application. The Court of Appeals erred both in concluding that § 1(2) is not open-ended in violation of Const 1963, art 4, § 29, and in severing it from the remainder of the Act rather than reading it in the context of the Act and harmonizing it consistent with the manifest intent of the Legislature.

CONCLUSION

Section 1(2) of 2011 PA 280 is a general provision enacted in compliance with Const 1963, art 4, § 29, because it is possible for more than one county to satisfy its qualifications. Accordingly, Defendant Governor Snyder respectfully requests that this Court (1) declare Act 280 constitutional (2) reverse the Court of Appeals' holding that the case should be remanded and that the first sentence of 2011 PA

280, § 1(2) should be stricken from the act, and (3) grant summary disposition to Defendant Governor Snyder as to the constitutionality of 2011 PA 280.

Respectfully submitted,

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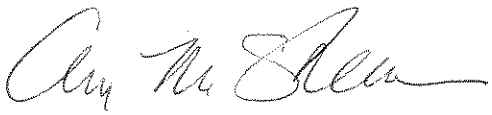

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